

(2004) 03 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

CHANDIGARH ADMINISTRATION

APPELLANT

Vs

RAM SINGH

RESPONDENT

Date of Decision : 17-03-2004

Acts Referred:

Citation : 2005 1 CLT 600 : 2005 1 CPJ 62

Hon'ble Judges : K.K.Srivastava , MajGenS.P.Kapoor J.

Final Decision : Appeal dismissed

Judgement

1. WE have heard Mr. K.C. Sahu, Govt. Pleader appearing for the appellant and have carefully perused the impugned order dated 19.1.2004 passed by the District Consumer Disputes Redressal Forum-II, U.T., Chandigarh [for short hereinafter referred to as the District Forum] in Complaint Case No. 230 of 2001.

2. THE District Forum has omitted from consideration the affidavit filed by Shri Baljit Singh Bath, S.D.O. Electricity, O.P., Sub-Division No. 10, Sector 40, Chandigarh on the ground that the said S.D.O. did not appear before the District Forum despite being summoned for his cross-examination with reference to the affidavit filed by him. Mr. K.C. Sahu, Govt. Pleader submitted that Shri Baljit Singh Bath, S.D.O. for some personal reasons could not appear for cross-examination with reference to the affidavit filed by him and as such no adverse inference ought to have been drawn against the affidavit of Shri Baljit Singh Bath. We are of the considered opinion that once the District Forum allowed the cross-examination of Shri Baljit Singh Bath, S.D.O. then he was required to be present before the District Forum for his cross-examination. The District Forum has held that the conduct of Shri Baljit Singh Bath, S.D.O. in not presenting himself for cross examination could not be justified and, therefore, the District Forum proceeded to hold that the affidavit should be treated in the light of law as non est. Thereafter, the District Forum relied on the evidence led by the respondent/complainant and held that the appellant/O.Ps. committed deficiency in service in imposing Rs. 20,000/- as penalty on account of SOP and Rs. 792/- as ED on account of theft of energy. The appellant/O.P. was directed to delete

these amounts from the demand raised by them to that extent and the order was directed to be complied with within one month from the date of receipt of certified copy of the order.

The finding of the District Forum regarding the omission to consider the affidavit of Shri Baljit Singh Bath, S.D.O. due to his non-appearance before the District Forum for cross-examination cannot be held to be contrary to law. On the other hand, the District Forum was right in ignoring the said affidavit. The finding of the District Forum on the basis of the evidence led by the complainant could not be shown to be erroneous in any manner.

3. RESULTANTLY, this appeal lacks merit and is dismissed in limine. Copies of this order be sent to the parties free of charge. Appeal dismissed.